

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Broadcast Localism

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MB Docket No. 04-233

**COMMENTS OF
THE FUTURE OF MUSIC COALITION**

November 1, 2004

Michael Bracy
Policy Director
Future of Music Coalition
1615 L St NW, Suite 520
Washington, DC 20036
202 331 2958
mbracy@bracytuckerbrown.com

The Future of Music Coalition (FMC) is a not-for-profit collaboration between members of the music, technology, public policy and intellectual property law communities. The FMC seeks to educate the media, policymakers, and the public about music / technology issues, while also bringing together diverse voices in an effort to come up with creative solutions to some of the challenges in this space. The FMC also aims to identify and promote innovative business models that will help musicians and citizens to benefit from new technologies.

Over the past five years, FMC has worked in coalition with other musician-focused organizations to research, document and call attention to essential challenges in the radio landscape. In our opinion, many of these challenges have resulted directly from the radical restructuring of radio station ownership that has taken place as an outgrowth of the 1996 Telecommunications Act and subsequent FCC actions. It is our belief that radio is a vital national resource – a unique communications tool that can and should be leveraged on behalf of local citizens. We believe in the core policy priorities of localism, competition and diversity, and are eager for policymakers to use these priorities as a yardstick when evaluating the relative success or failure of specific policy decisions.

While this specific docket does not focus on questions of ownership, we would be disingenuous if we failed to reiterate our strong belief that the evolution of radio away from local ownership has instigated the erosion of all three regulatory goals. In a general sense, radio used to be controlled by local broadcasters, both rooted in and accountable to

a specific community. Today's commercial radio landscape is controlled largely by out of town conglomerates that seem to lack a sense of restraint and basic local connectedness.

While these concerns may be hard to quantify, there are specific measures that can be useful, including the study FMC submitted to the FCC in 2002, "Radio Consolidation: Has it Benefited Musicians and Citizens?". In this report, FMC was able to quantify both the transformation of radio ownership and the impact on competition in local markets. FMC also documented the significant overlap of specific songs in multiple formats, addressing the myth that creation of multiple formats was a substitute for diversity of content.

Since issuing the study, the FMC has focused efforts on maximizing public participation in the FCC's policy-making processes. We understand that this proceeding aims to isolate the debate about station ownership from the regulatory environment that existing owners should work under; while we disagree that these factors can be separated we are pleased that the Commission is studying these issues and hope to continue as an effective resource for Commission staff.

In response to this specific Notice of Inquiry, FMC created an online comment tool that was designed not to solicit a specific message, but rather to facilitate widespread participation and authentic reflection from members of the music community. FMC is

pleased that hundreds of citizens utilized this comment tool, which we hope will be useful to the FCC as the Commission moves forward.

This Notice of Inquiry raises very important questions related to the relationship between citizens and their local broadcasters. In the context of the music community, it is critical to recognize the vital historic role that local broadcasters played in providing exposure and opportunity for local, up-and-coming artists and for a wide variety of musical expression. Further, it is an essential fact that to a large extent the radio industry was built on the contributions of the music community.

FMC contends that the ability for young and new artists to find a platform on local radio stations – to be “discovered” – is rapidly disappearing from commercial radio. Historically, radio programming was a competitive environment, with DJs and programmers searching for the next great artist or the next “movement” in popular music. In many cases, local radio played a key role in promoting a local artist or regional sound.

Today’s post-consolidation programming model moves away from this traditional relationship. Instead of programming decisions made by local personnel rooted in a specific community, and accountable to a local audience, station groups streamline operations, lessen the role of local programmers, and rely on vague notions of “research” in developing tightly formatted stations that mirror other stations across the country.

It is difficult to see the value for citizens or the music community of the migration from the historic programmer or DJ-driven playlist model to today's allegedly "market based" model. It is unclear how the interests of a corporate entity to cut costs by eliminating local decision makers and broadcast talent intersects with the public interest. FMC will read the comments of industry with great interest to discern whether they bother to mount a justification.

The FCC is also correct to examine serious and repeated allegations that new forms of structural payola are keeping local and independent artists from gaining significant airplay. FMC contends that these structures exist to the detriment of both listeners and the ability of local musicians to gain the exposure necessary to make a living. The FCC should be much more vigilant in enforcing existing payola rules. Furthermore, if the Commission believes the payola statutes must be updated to account for new practices they should request such authority from Congress. At a very minimum, the FCC must require basic data from broadcasters that indicate what songs they are playing and how they determine what makes their playlists. This is not censorship; it is having a fundamental level of understanding of the realities of the marketplace the Commission is charged with regulating.

Finally, the challenges seen throughout commercial radio only serve to illustrate the enormous importance of non-commercial radio for the music community. In a music and cultural context, local non-commercial radio is a critical public resource that must be given a much higher priority in the regulatory process. There is a very fundamental

difference between the music played on non-commercial and commercial radio. Non-commercial radio plays songs that the programmer wants their audience to hear because the songs and artists are thought to have merit. It is a proven gateway for local and independent artists to reach a larger audience and is a significant antidote to the homogeneity and blandness of the commercial side of the dial. FMC applauds the Commission for their work in implementing non-commercial Low Power FM radio stations, but urges the FCC to pursue other initiatives to strengthen LPFM and non-commercial radio as a whole.

In closing, the Future of Music Coalition appreciates this Notice of Inquiry and eagerly awaits the opportunity to respond to commenters in the reply phase. We also applaud the active participation of hundreds of members of the music community in this docket, and hope that their contributions will assist the FCC as it grapples with the challenging question of how to mandate localism in an era of consolidation.